

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 March 2017

**Public Authority:** Home Office  
**Address:** 2 Marsham Street  
London  
SW1P 4DF

#### Decision (including any steps ordered)

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1. The complainant requested historical information relating to the maternity pay and leave entitlement of a civil servant.
2. By the date of this notice the Home Office had not responded to the request. The Commissioner's decision is that, by failing to respond to the request within the statutory time frame of 20 working days, the Home Office breached sections 1(1) and 10(1) of the FOIA.
3. The Commissioner requires the Home Office to issue a response to the request under the FOIA by either complying with section 1(1) or issuing a valid refusal notice as set out in section 17 of the FOIA.
4. The Home Office must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### Request and response

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5. On 13 October 2016, the complainant wrote to the Home Office requesting both information under the FOIA and personal information under the Data Protection Act 1998 (DPA). With respect to the information that is the subject of this decision notice, the complainant requested:

*"The maternity pay and leave entitlement for a full time, fully established civil servant in 1984".*

6. The Home Office responded to the DPA aspect of the request on 1 November 2016. However, no reference was made to the information requested under the FOIA.
7. Despite a reminder from the complainant, and the intervention of the Commissioner, the Home Office had not responded substantively by the date of this notice.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 2 December 2016 to complain that she had not received a response to the FOIA element of her request.
9. The Commissioner wrote to the Home Office on 19 January 2017, asking it to respond within 10 working days. However, at the time of writing, the Home Office had not provided its substantive response.
10. The scope of this case is the determination of whether the Home Office complied with sections 1 and 10 of the FOIA.

### **Reasons for decision**

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11. Section 1(1) of the FOIA states that upon receipt of a request a public authority must confirm or deny whether the information is held, and if that information is held it must be communicated to the requester.
12. Section 10(1) of the FOIA states that public authorities must comply with section 1(1) within 20 working days of receipt of the request.
13. Despite a reminder from the complainant, and the intervention of the Commissioner, the Home Office had not responded to the complainant's request for information.
14. From the information provided to the Commissioner in this case it is evident that the Home Office did not respond to the complainant within the statutory timeframe in respect of this request.
15. The Commissioner's decision is that the Home Office did not deal with the request for information in accordance with the FOIA. In this case the Home Office breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. The Home Office is now required to respond to the request in accordance with the FOIA.

## **Other matters**

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16. The delay in responding to this request will be logged as part of ongoing monitoring of the Home Office's compliance with the FOIA.

## Right of appeal

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17. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

18. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed** .....

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**